

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**THOMAS DOUGLAS, Administrator of the
Estate of SEBERA GAYLE DOUGLAS,
Deceased**

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:06-CV-188-WKW

PACTIV CORPORATION; et al.

DEFENDANTS

**AGREED UPON MOTION TO DISMISS DEFENDANTS
D & D LUMBER COMPANY, INC., AND LOCKHART
LUMBER COMPANY, INC., WITHOUT PREJUDICE**

Comes now the Plaintiff and states as follows;

1. It is not the Plaintiff's intention to dismiss any cause of action related to the predecessors of Defendant PACTIV, which were D & D Lumber Company, Inc., and Lockhart Lumber Company, Inc., Delaware corporations, which had their principle place of business in the State of Alabama.
2. Plaintiff and PACTIV have agreed upon the proper description of the Defendants to be dismissed without prejudice in order to dismiss the two corporations which have the same name as

Defendants' predecessors.

Wherefore, Plaintiff moves the Court to dismiss D & D Lumber Company, Inc., an Alabama corporation formed on November 13, 1978, and Lockhart Lumber Company, Inc., an Alabama corporation formed on November 13, 1978, as Defendants in this matter, without prejudice.

Respectfully submitted this 22nd day of May, 2006.

/s/ W. Eason Mitchell
W. EASON MITCHELL (MIT020)
The Colom Law Firm, LLC
Post Office Box 866
Columbus, MS 39703-0866
Telephone: 662-327-0903
Facsimile: 662-329-4832
emitchell@colom.com

Certificate of Service

I, W. Eason Mitchell, hereby certify that on May 22, 2006, I electronically filed the foregoing *Agreed upon Motion to Dismiss Defendants D & D Lumber Company , Inc., and Lockhart Lumber Company, Inc., Without Prejudice* with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Dennis R. Bailey
John Aaron Earnhardt
W. Lee Gresham , III
R. Austin Huffaker , Jr
Edwin Bryan Nichols
Matthew C. Sostrin
Mark R. Ter Molen
H. Thomas Wells , Jr
John C. Berghoff , Jr

/s/ W. Eason Mitchell

W. Eason Mitchell

50691.wpd